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FORM**

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Total Number of Pages in This Submission

24

Application Number

09/832,719

Filing Date

04/11/2001

First Named Inventor

Robert Leslie Van Oostenbrugge

Art Unit

2173

Examiner Name

Dennis G. Bonshock

Attorney Docket Number

PHNL 000183

ENCLOSURES (Check all that apply)

Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Reply to Missing Parts/
Incomplete ApplicationReply to Missing Parts
under 37 CFR 1.52 or 1.53

Drawing(s)



Licensing-related Papers



Petition

Petition to Convert to a
Provisional ApplicationPower of Attorney, Revocation
Change of Correspondence Address

Terminal Disclaimer



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After Allowance Communication to TC

Appeal Communication to Board
of Appeals and InterferencesAppeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please identify
below):**Remarks**

Enclosed is an Appeal Brief for the above referenced case and the required fee.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

LEIMBACH ASSOCIATES

Signature

Printed name

James D. Leimbach

Date

December 28, 2005

Reg. No.

34,374

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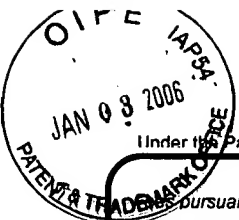
James D. Leimbach

Date

December 28, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Effective on 12/08/2004.

Pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2005☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 500.00

Complete if Known

Application Number	09/832,719
Filing Date	04/14/2001
First Named Inventor	Robert Leslie Van Oostenbrugge
Examiner Name	Dennis G. Bonshock
Art Unit	2173
Attorney Docket No.	PHNL 000183

METHOD OF PAYMENT (check all that apply)☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☐ Deposit Account Deposit Account Number: _____ Deposit Account Name: _____

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☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims
_____ - 20 or HP = _____	x _____	= _____	_____	_____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
_____ - 3 or HP = _____	x _____	= _____	_____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 = _____	/ 50 = _____	(round up to a whole number) x _____	= _____	_____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Fee for filing Appeal Brief _____ 500

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 34,374	Telephone (585) 381-9983
Name (Print/Type)	James D. Leimbach	Date 12/28/2005	

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND
INTERFERENCES

In re Application of

Robert Leslie Van Oostenbrugge, et
al.

METHOD AND APPARATUS FOR
ADAPTING USER INTERFACE

Confirmation No.: 9755

Serial No. 09/832,719

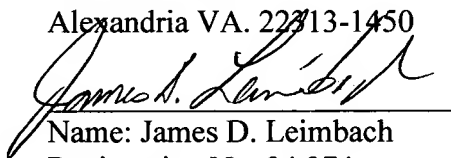
Filed: April 11, 2001

Group Art Unit: 2173

Examiner: Dennis G. Bonshock

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Date: December 28, 2005

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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

01/04/2006 BABRAHA1 00000098 09832719

01 FC:1401

500.00 OP

Serial No. 09/832,719

Real party in interest

The real party of interest is the Assignee who is U. S. Philips Corporation, a corporation existing under the laws of the State of Delaware (hereinafter Appellant).

Related appeals and interferences

There are no related appeals or interferences to the present application that are known to appellants, the appellant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Status of the Claims

Claims 1-20 stand rejected as the claims that are currently being appealed. A copy of appealed claims 1-20 is contained in Appendix I following this brief.

Status of the Amendments After Final

A response was filed subsequent to the final rejection to overcome the examiner's rejection of claims 1-20 under the provisions of 35 U.S.C. §102(e) and 35 U.S.C. §103(a). The Examiner in an Advisory Action dated November 16, 2005 indicated that the rejections of claims 1-20 stand.

Summary of the Claimed Subject Matter

The appealed claims define subject matter for a method and apparatus for presenting a graphical user interface within which information is displayed and for applying a skin defining an artistic background comprising one of a background color, a background shape or a specific orientation of controls to the graphical user interface so as to influence the look of the graphical user interface to change a currently applied skin in response to an event not originating from a user request to change the currently applied skin.

Appealed claim 1 defines subject matter for an apparatus comprising presentation means 109 (illustrated in Figure 1) for presenting a graphical user interface generated by graphical interface processor 108 (as described on page 4, line 23-page 5, line 2) within which information is displayed (as described on page 4, line 23-page 5, line 2) and skin means (also graphical interface processor 108) for applying a skin (as described on page 5, lines 2-11 of the

specification) defining an artistic background comprising one of a background color, a background shape or a specific orientation of controls to the graphical user interface so as to influence the look of the graphical user interface (as described in the specification on page 5, lines 19-22 and page 8, lines 20-30), characterized in that the skin means are adapted to change a currently applied skin in response to an event not originating from a user request to change the currently applied skin (as described in the specification on page 5, lines 12-26).

Appealed claim 2 defines subject matter for an apparatus as defined in appealed claim 1, characterized in that the apparatus further comprises receiving means (modem 104) or receiving information from a remote server, said event comprising the reception of a skin change command from the remote server (as described in the specification on page 5, lines 16-19).

Appealed claim 3 defines subject matter for an apparatus as defined in appealed claim 2, characterized in that the apparatus further comprises storage means 106 for storing a plurality of skins, the skin change command including an identification of a respective one of the plurality of skins, the skin means being adapted to apply said respective skin to the graphical user interface in response to said skin change command (as described in the specification on page 5, lines 12-26).

Appealed claim 4 defines subject matter for an apparatus as defined in appealed claim 2, characterized in that the skin change command including a further skin, the skin means being adapted to apply said further skin to the graphical user interface (as described in the specification on page 5, lines 12-26).

Appealed claim 5 defines subject matter for an apparatus as defined in appealed claim 1, characterized in that the presentation means 109 are capable of presenting further information, the event comprising a change of a parameter of said further information (as described in the specification on page 2, lines 26-30).

Appealed claim 7 defines subject matter for an apparatus as defined in appealed claim 1 characterized in that the apparatus further comprises user profile means (as described in the specification on page 3, lines 14-25) for maintaining a user profile, said event comprising a change of said user profile.

Appealed claim 9 defines subject matter for a method of generating a command to an apparatus, the apparatus having presentation means 109 for presenting a graphical user interface generated by graphical interface processor 108 (as described on page 4, line 23-page 5,

line 2) within which information is displayed and skin means (also graphical interface processor 108) for applying a skin defining an artistic background within which data can be displayed to the graphical user interface so as to influence the look of the graphical user interface (as described in the specification on page 5, lines 19-22 and page 8, lines 20-30), characterized in that the command comprises a skin change command remotely transmitted to the apparatus for changing a currently applied skin in response to a parameter related to displayed information (as described in the specification on page 5, lines 12-26).

Appealed claim 10 defines subject matter for method of generating a command to an apparatus as defined in appealed claim 9 characterized in the said skin change command includes an identity of a respective skin stored in storage means 106 of the apparatus, for controlling the skin means (graphical interface processor 108) so as to apply said respective skin to the graphical user interface (as described in the specification on page 5, lines 12-26).

Appealed claim 11 defines subject matter for method of generating a command to an apparatus as defined in appealed claim 9, characterized in that said skin change command includes a further skin for controlling the skin means (graphical interface processor 108) so as to apply said further skin to the graphical user interface (as described in the specification on page 2, line 18 – page 3, line 13).

Appealed claim 13 defines subject matter for a graphical user interface having a skin defining an artistic background within which data can be displayed within the graphical user interface generated by graphical interface processor 108 (as described on page 4, line 23-page 5, line 2), including: a presentation mechanism 109 (illustrated in Figure 1) within the graphical user interface that presents a set of information within the skin (as described in the specification on page 5, lines 19-22 and page 8, lines 20-30).

a skin change device coupled to the presentation mechanism that changes the skin without changing the set of information within the skin in response to an event not originating from a user request to a different skin (as described in the specification on page 5, lines 12-26).

Grounds of Rejection to be Reviewed on Appeal

The Advisory Action dated November 16, 2005 indicated that the rejections to claim 1-20 stand. Claims 1 through 20 are the appealed claims. The issues to be determined on appeal are: whether claims 9-11 and 19 are anticipated under the provisions of 35 U.S.C. §102(e)

U.S. Patent No. 6,784,900 issued to Dobronsky et al. (hereinafter referred to as Dobronsky et al.); and whether claims 1-8, 12-18, and 20 are obvious under the provisions of 35 U.S.C. §103(a) over *Dobronsky et al.* in view of U.S. Patent No. 5,778,187 issued to Monteiro et al. (hereinafter referred to as *Monteiro et al.*).

Argument

I. The rejection of appealed claims 9-11 and 19 under the provisions of 35 U.S.C. §102(e) as being anticipated via over *Dobronsky et al.*

A. The rejection under 35 U.S.C. S 102(e)

Appealed claims 9-11 and 19 are rejected as being anticipated by *Dobronsky et al.* (U.S. Patent No. 6,784,900). The examiner's position is that *Dobronsky et al.* disclose every element defined by appealed claims 11-17 and 19.

The MPEP states at §2131 herein the courts opinion in *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) is quoted as stating that a "claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." The Applicants, respectfully, assert that the rejection contained in the July 25, 2005 Final Office Action does not set forth each and every element within the rejected claims.

B. The reference

Dobronsky et al. (U.S. Patent No. 6,784,900) teaches on-demand addition of graphic and other information to a browser's toolbar and installing a plug-in module into the toolbar area (see Abstract). *Dobronsky et al.* teach that skins can be located on service sites that are accessible via the internet and downloaded as a plug-in module into the toolbar area (see col. 5, lines 31-67) and presenting graphical information for display as a skin in the toolbar area. The graphical information displayed as a skin in the toolbar corresponds to another web site as defined by claim 25 of *Dobronsky et al.* The downloading of the plug-in module to the toolbar area and the presentation of graphical information corresponding to another web site is not made in response to the current website navigated by the web server.

Dobronsky et al. at column 2, lines 51-63, teach that a browser can receive information via communication with the Internet wherein the information transmitted is a skin change command. It should be noted that *Dobronsky et al.* do not disclose or suggest receiving information from a remote server, upon an event including the reception of a skin change command from the remote server.

Dobronsky et al. at column 5, lines 33-41, teach the selection of a skin from service sites. It should be noted that *Dobronsky et al.* do not disclose or suggest the skin change command to include an identification of a respective one of the plurality of skins, the skin means being adapted to apply the respective skin to the graphical user interface in response to said skin change command.

Dobronsky et al. at column 5, lines 55-67, teach that a change in the displayed skin with a matching skin can be accomplished through a plug-in offered by a service site. It should be noted that *Dobronsky et al.* do not disclose or suggest presentation means capable of presenting further information, an event not originating from a user request to change the currently applied skin, or the event including a change of a parameter of said further information.

C. The differences between the invention and the reference

Appealed claim 9

The rejection to appealed claim 9 asserts that the subject matter defined by appealed claim 9 is disclosed by cited reference *Dobronsky et al.* (U.S. Patent No. 6,784,900). "To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently." *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997).

Appealed claim 9 defines subject matter for the command to include a skin change command that is remotely transmitted to the apparatus for changing a currently applied skin in response to a parameter related to displayed information. The appellants, respectfully, assert that the foregoing subject matter is not found within *Dobronsky et al.* The examiner's position is that *Dobronsky et al.* teach that a change in the skin is accomplished by the user selecting a skin for downloading and installing it in the toolbar area of the browser. The examiner cites claim 25 of *Dobronsky et al.* and alleges that it discloses a service website providing a command a skin in

toolbar area of the browser to change the skin in response to the current website navigated by the web server. Initially, the appellants point out that Claim 25 of *Dobronsky et al.* teaches downloading a plug-in module to the toolbar area and presenting graphic information for display in the toolbar area corresponding to another web site and does not make any disclosure or suggestion for a response to occur to the current website that is being navigated by the web server as alleged by the examiner.

Furthermore, the rejection does not address the subject matter for “changing a currently applied skin in response to a parameter related to displayed information” and, therefore, does not find all the elements of the rejected claims within *Dobronsky et al.*

Additionally, the appellants, respectfully, point out that appealed claim 9 defines a graphical user interface within which information is displayed and skin means for applying a skin defining an artistic background within which data can be displayed to the graphical user interface so as to influence the look of the graphical user interface. Therefore, in order to satisfy a rejection based upon anticipation, all the elements defined by appealed claim 9 must be found within the cited reference *Dobronsky et al.* This is not accomplished by the downloading of a plug-in module to the toolbar area and presenting graphic information for display as a skin in the toolbar area as taught by *Dobronsky et al.*

Dobronsky et al. do not disclose or suggest a skin change command that is remotely transmitted to the apparatus for changing a currently applied skin in response to a parameter related to displayed information.

Appealed claim 10

Appealed claim 10 defines subject matter of appealed claim 9 for the skin change command to be remotely transmitted to the apparatus for changing a currently applied skin in response to a parameter related to displayed information characterized by controlling the skin means so as to apply the skin to the graphical user interface and the skin change command including an identity of a respective skin stored in storage means of the apparatus. As previously discussed in the discussion to the rejection of appealed claim 9, the subject matter for the skin change command to be remotely transmitted to the apparatus for changing a currently applied skin in response to a parameter related to displayed information is not disclosed or suggested by *Dobronsky et al.* Accordingly, the basic infrastructure of the subject matter defined by appealed

Claim 10 for the skin change command to be remotely transmitted to the apparatus for changing a currently applied skin in response to a parameter related to displayed information is not found within *Dobronsky et al.* Therefore, the subject matter for the skin change command to include an identity of a respective skin stored in storage means of the apparatus, for controlling the skin means so as to apply the skin to the graphical user interface is not disclosed or suggested by *Dobronsky et al.*

Appealed claim 11

Appealed claim 11 defines subject matter of appealed claim 9 for the skin change command to be remotely transmitted to the apparatus for changing a currently applied skin in response to a parameter related to displayed information, wherein the skin change command includes a further skin for controlling the skin means so as to apply said further skin to the graphical user interface. As previously discussed in the discussion to the rejection of appealed claim 9, the subject matter for the skin change command to be remotely transmitted to the apparatus for changing a currently applied skin in response to a parameter related to displayed information is not disclosed or suggested by *Dobronsky et al.* Therefore, the subject matter for the skin change command to be remotely transmitted to the apparatus for changing a currently applied skin in response to a parameter related to displayed information to include a further skin, in which the skin change command includes a further skin to the graphical user interface is also not disclosed or suggested by *Dobronsky et al.*

Appealed claim 19

Appealed claim 19 defines subject matter for the method of appealed claim 9, wherein the artistic background defining the skin comprises at least one of a background shape, a background color or an arrangement of controls specific to the individual skin. The rejection contends that col. 5, lines 55-67 of *Dobronsky et al.* teach the subject matter of appealed claim 9. *Dobronsky et al.* at col. 5, lines 55-67 of teach that a suitable skin can be provided at sites offering hotbar® plug-ins. The appellants, respectfully, assert that *Dobronsky et al.* do not disclose or suggest a skin change command for changing a currently applied skin in response to a parameter related to displayed information with a skin defining an artistic background, wherein

the artistic background defining the skin comprises at least one of a background shape, a background color or an arrangement of controls specific to the individual skin.

II. The rejection of appealed claims 18 and 20-22 under the provisions of 35 U.S.C. §103(a) as being obvious over *Dobronsky et al.* in view of *Monteiro et al.*

A. The rejection under 35 U.S.C. S 103(a)

Appealed claims 1-8, 12-18, and 20 are rejected under the provisions of 35 U.S.C. §103(a) as being unpatentable over *Dobronsky et al.* (U.S. Patent No. 6,784,900) in view of U.S. Patent No. 5,778,187 issued to Monteiro et al. (hereinafter referred to as *Monteiro et al.*).

The MPEP at §2143 states that to “establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).”

The MPEP at §2143.01 also states that if the “proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

B. The references

Dobronsky et al. has been discussed in detail within the discussion under the rejection to claims 9-11 and 19 as being anticipated under the provisions of 35 U.S.C. §102(e) issued to *Dobronsky et al.* (U.S. Patent No. 6,784,900).

The teachings of *Monteiro et al.* pertain to data and information displayed within the skin (the appearance of the graphical user interface). *Monteiro et al.* teach a real time

distribution architecture that provides delivery of real time information to any number of users and the multiple simultaneous deliveries of real time channels to a large number of users (see column 4, lines 1-5).

Monteiro et al. at column 4, lines 1-5, discuss the real time the distribution architecture that provides delivery of real time information to any number of users and the multiple simultaneous deliveries of real time channels to a large number of users. *Monteiro et al.*, at column 4, lines 9-19, discuss the type of information that is delivered can be video graphics or text. The appellants, respectfully, point out that *Monteiro et al.* teach the delivery of information that can be used within a graphical user interface; however, there is no disclosure or suggestion within *Monteiro et al.* that relates to changing the skin to a graphical user interface.

Monteiro et al. at column 7, lines 48-59 teaches that side bar information is synchronized with the audio channel and describes audio visual information that can be displayed in the side bar. It should be noted that *Monteiro et al.* at column 7, lines 48-59 describe information and not skin changes to the graphical user interface.

Monteiro et al. teach that the information displayed within the user interface changes and not that that the appearance of the user interface is changed. Column 17, lines 20-31 of *Monteiro et al.* states that the “information contained in the channel guide, program guide, and the tabs of the multimedia frame is dynamically transmitted to the client.” There is no disclosure or suggestion within *Monteiro et al.* that the appearance of the user interface (skin of the graphical user interface) is changed.

C. The differences between the invention and the references

Claims 1-8, 12-18, and 20 are rejected under the provisions of 35U.S.C. §103(a) as being unpatentable over *Dobronsky et al.* in view of *Monteiro et al.* The appellants, respectfully, point out that the teachings of *Dobronsky et al.* pertain to a method and system for on demand addition of graphic information to a user’s toolbar (see Abstract). The teachings of *Monteiro et al.* pertain to a real time distribution architecture that provides delivery of real time information to any number of users and the multiple simultaneous deliveries of real time channels to a large number of users (see column 4, lines 1-5). The entire teaching of *Monteiro et al.* relates the delivery of information that can be used within a graphical user interface. The combination suggested by the rejection would not allow the references so combined to perform

their intended purpose. It would not be possible for *Dobronsky et al.* to provide on demand addition of graphic information within the method and system of *Monteiro et al.* The teachings *Dobronsky et al.* require an on demand manner of operation and *Monteiro et al.* do not provide for on demand delivery but instead provides multicasting. It would not be possible for *Monteiro et al.* to provide delivery of real time information to any number of users within the method and system of *Dobronsky et al.* The teachings of *Monteiro et al.* require multicasting and are not compatible with the downloading of on demand addition of graphic information to a user's toolbar as taught by *Dobronsky et al.* The MPEP at §2143.01 states that if the "proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Accordingly, for the aforesaid reasons there is no suggestion or motivation to make the modification proposed by the rejection. Therefore, the rejection does not establish a *prima facie* case of obviousness.

Appealed claims 1 and 13

The rejection of appealed claims 1 and 13 asserts that *Dobronsky et al.* teach the subject matter defined by claims 1 and 13 except that *Dobronsky et al.* do not teach that the skin change is generated in response to an event not originating from a user request to change the currently applied skin. The rejection alleges that *Monteiro et al.* teach a system in which the appearance of a browser window is changed based on current content and that that the user interface is changed in response to a different song being played at: column 4, lines 9-19; column 17, lines 20-31; and column 7, lines 48-59.

The appellants, respectfully, disagree with these assertions made in the rejection. *Monteiro et al.* at column 4, lines 1-5, discuss the real time the distribution architecture that provides delivery of real time information to any number of users and the multiple simultaneous deliveries of real time channels to a large number of users. *Monteiro et al.*, at column 4, lines 9-19, discuss the type of information that is delivered can be video graphics or text. The teaching of *Monteiro et al.* relates the delivery of information that can be used within a graphical user interface and there is no disclosure or suggestion within *Monteiro et al.* for subject matter related to changing the skin to a graphical user interface.

Monteiro et al. at column 7, lines 48-59 teach that side bar information is synchronized with the audio channel and describes audio visual information that can be displayed in the side bar. It should be noted that *Monteiro et al.* at column 7, lines 48-59 describe information and not skin changes to the graphical user interface.

Monteiro et al. clearly teach that the information displayed within the user interface changes and not that the appearance of the user interface is changed. Column 17, lines 20-31 of *Monteiro et al.* states that the “information contained in the channel guide, program guide, and the tabs of the multimedia frame is dynamically transmitted to the client.” There is no disclosure or suggestion within *Monteiro et al.* that the appearance of the user interface (skin of the graphical user interface) is changed.

The examiner admits that *Dobronsky et al.* do not provide any disclosure or suggestion for changing the currently applied skin in response to an event not originating from a user request to change the skin. *Monteiro et al.* do not provide any teaching related to the appearance of the graphical user interface. As previously discussed, *Monteiro et al.* teach altering data and information that is displayed within the graphical user interface.

The teachings of *Monteiro et al.* pertain to data and information that is displayed with the skin. There is no disclosure or suggestion within *Monteiro et al.* that the skin of the graphical is changed. A person skilled in the art would not be motivated by *Monteiro et al.* to alter the appearance of the graphical user interface because, simply put, *Monteiro et al.* do not disclose or suggest alterations to the graphical user interface.

The appellants, respectfully, assert that *Dobronsky et al.* and *Monteiro et al.*, taken alone or in combination do not disclose or suggest a skin change device coupled to a presentation mechanism that changes the skin without changing the set of information within the skin in response to an event not originating from a user request to a different skin.

Appealed claim 2

Regarding appealed claim 2, the rejection asserts that *Dobronsky et al.* teach an apparatus for receiving information from a remote server and the event comprising the reception of a skin change command from the remote server. The rejection further asserts that *Dobronsky et al.* teach at column 2, lines 51-63, a browser receiving information via communication with the Internet where the information transmitted is a skin change command. The appellants,

respectfully, assert that neither *Dobronsky et al.* nor *Monteiro et al.* disclose or suggest a receiving means for receiving information from a remote server, upon an event comprising the reception of a skin change command from the remote server. It should be noted that the skin means as defined by appealed claim 2 are adapted to change a currently applied skin in response to an event not originating from a user request to change the currently applied skin. The appellants, respectfully, submit that *Dobronsky et al.* and *Monteiro et al.*, taken alone or in combination, do not disclose or suggest the subject matter to change a currently applied skin in response to an event not originating from a user request to change the currently applied skin including receiving means or receiving information from a remote server, wherein the event comprises the reception of a skin change command from the remote server.

Appealed claim 3

The rejection to appealed claim 3 asserts that *Dobronsky et al.* teach an apparatus comprising storage means for storing a plurality of skins and downloading and storing of specific skin at column 4, lines 26-43. The examiner position is that *Dobronsky et al.* at column 5, lines 33-41 teach the selection of a skin from a plurality of skins resulting in the installation of the skin to a toolbar area of the browser. The appellants, respectfully point out that appealed claim 3 defines subject matter for the skin change command to include an identification of a respective one of the plurality of skins, the skin means being adapted to apply the respective skin to the graphical user interface in response to said skin change command. It should be noted that the skin means as defined by appealed claim 3 are adapted to change a currently applied skin in response to an event not originating from a user request to change the currently applied skin. The appellants, respectfully, assert that *Dobronsky et al.* and *Monteiro et al.*, taken either alone or in combination, do not disclose or suggest the skin means adapted to change a currently applied skin in response to an event not originating from a user request to change the currently applied skin, wherein the skin change command to include an identification of a respective one of the plurality of skins, the skin means being adapted to apply the respective skin to the graphical user interface in response to said skin change command.

Appealed claim 4

The rejection to appealed claim 4 asserts that *Dobronsky et al.* teach the skin change command including a further skin, in which the skin means is adapted to apply said further skin to the graphical user interface. The appellants, respectfully, point out that the skin change command as defined by appealed claim 4 includes a further skin, and the skin means being adapted to apply said further skin to the graphical user interface is viewed in conjunction with the skin means being adapted to change a currently applied skin in response to an event not originating from a user request to change the currently applied skin. The appellants, respectfully, assert that *Dobronsky et al.* and *Monteiro et al.*, either alone or in combination do not disclose or suggest the skin means being adapted to apply said further skin to the graphical user interface is viewed in conjunction with the skin means being adapted to change a currently applied skin in response to an event not originating from a user request to change the currently applied skin.

Appealed claims 5 and 14

The rejection to appealed claims 5 and 14 asserts that *Dobronsky et al.* teach presentation means capable of presenting further information and that the event comprises a change in a parameter of said further information. The rejection further asserts that *Dobronsky et al.* teach at column 5, lines 55-67, that a change in displayed skin is affected by further information. *Dobronsky et al.* at column 5, lines 55-67, teach a skin can be downloaded from a site, there is no disclosure or suggestion for the event to comprise a change of a parameter of or that a change in displayed skin is affected by the further information. The appellants, respectfully, assert that *Dobronsky et al.* and *Monteiro et al.*, either alone or in combination do not disclose or suggest that the presentation means are capable of presenting further information, the event comprising a change of a parameter of said further information, wherein the skin means are adapted to change a currently applied skin in response to an event not originating from a user request to change the currently applied skin.

Appealed claims 6 and 15

Appealed claims 6 and 15 define subject matter for the further information, respectively, defined by appealed claims 5 and 14 to include audio and/or video content, within the parameter representing a category of the content.

The rejection to appealed claims 6 and 15 asserts that *Monteiro et al.* teach information comprising audio and/or video content at column 2, lines 8-11 and column 17, lines 20-31. The appellants, respectfully, point out that column 2, lines 8-11 of *Monteiro et al.* is discussing information being delivered. The information as defined by appealed claims 6 and 15 define the event including a change of a parameter of the further information. The information delivered by *Monteiro et al.* has no capability to define the event by a change of a parameter of the further information.

The Examiner's position is that *Monteiro et al.* teach a parameter representing a category of the content at column 17, lines 20-31. The rejection asserts that if the user changes music type or there is a change in the artist the interface window will adapt. The appellants, respectfully, submit that this subject matter does not disclose or suggest any alterations in the appearance of the graphical user interface or the skin that is applied to the graphical user interface. The appellants, respectfully, assert that *Dobronsky et al.* and *Monteiro et al.*, either alone or in combination do not disclose or suggest that the presentation means are capable of presenting further information, the event comprising a change of a parameter of said further information, wherein the skin means are adapted to change a currently applied skin in response to an event not originating from a user request to change the currently applied skin and the further information comprises audio and/or video content, the parameter representing a category of the content.

Appealed claims 7 and 16

Appealed claims 7 and 16 define subject matter for profile means for maintaining a user profile, wherein the event includes a change of said user profile. The rejection asserts that *Monteiro et al.* teach that the apparatus further comprised user profile mean for maintaining a user profile, and an event comprising a change in a user profile. The examiner's position is that *Monteiro et al.* in column 2, lines 17-26 and column 8, lines 12-15, teach that portions of information can be tailored to the client, when the clients habits change the environment adapts around the client. The Applicants respectfully disagree with these assertions contain in the rejection. *Monteiro et al.* in column 2, lines 17-26 discusses that multiple channels of information are simultaneously available to the users. Column 8, lines 12-15, if *Monteiro et al.* teach that particular advertising can be delivered to the user. There is no disclosure or

suggestion that the environment adapts around the client. The appellants, respectfully, assert that *Dobronsky et al.* and *Monteiro et al.*, either alone or in combination do not disclose or suggest that the presentation means are capable of presenting further information, the event comprising a change of a parameter, with the profile means maintaining a user profile, and the event comprising a change of said user profile.

Appealed claims 8 and 17

Appealed claims 8 and 17 define subject matter for a computer program product for causing, when executed on a computing device, the computing device to constitute an apparatus as defined in, respectively, appealed claims 1 and 13. The rejection asserts that *Dobronsky et al.* teach the foregoing subject matter being implemented in a computer program of a computing device. The examiner's position is that *Dobronsky et al.* teach, in column 1, lines 11-21 the apparatus as defined in, respectively, appealed claims 1 and 13 being implemented on a computer utilizing computer programs. The appellants, respectfully, point out that *Dobronsky et al.* at column 1, lines 11-21 states that the internet is in widespread use and details some of the languages and browsers that are commonly used in accessing the internet. The appellants, respectfully, assert that *Dobronsky et al.* and *Monteiro et al.*, either alone or in combination do not disclose or suggest a program for a skin change device coupled to the presentation mechanism that changes the skin without changing the set of information within the skin in response to an event not originating from a user request to a different skin.

Appealed claim 12

Appealed claim 12 defines a method of distributing audio and/or video content as defined in appealed claim 9. The rejection asserts that *Monteiro et al.* teach information comprising audio and/or video content. The rejection further asserts that *Monteiro et al.* teach in column 2, lines 8-11 and column, 17, lines 20-31, the information being audio and/or video content. The Examiner's position is that *Monteiro et al.* teach a parameter representing a category of the content at column 17, lines 20-31, and that the user changes music type or there is a change in the artist the interface window will adapt. *Monteiro et al.* teach content and information changes. Appealed claim 12 defines subject matter for altering the appearance of the graphical user interface. Appealed claim 12 does not define subject matter for changing the

information that is presented within the graphical user interface. The appellants, respectfully, assert that *Dobronsky et al.* and *Monteiro et al.*, either alone or in combination do not disclose or suggest a program for a skin change device coupled to the presentation mechanism that changes the skin without changing the set of information within the skin in response to an event not originating from a user request to a different skin to be used as a method of distributing audio and/or video content.

Appealed claim 18

Appealed claim 18 defines subject matter wherein the artistic background defining the skin comprises at least one of a background shape, a background color or an arrangement of controls specific to the individual skin.

The rejection asserts that *Dobronsky et al.* teach the artistic background defining the skin comprising at least one of background shape, a background color, or arrangement of controls specific to the individual skin at column 5, lines 55-67 and Fig. 5. The appellants, respectfully, point out that *Dobronsky et al.* at column 5, lines 55-67 and Fig. 5 teach that a site can be available to download a skin. The appellants, respectfully, assert that *Dobronsky et al.* and *Monteiro et al.*, either alone or in combination do not disclose or suggest a program for a skin change device coupled to the presentation mechanism that changes the skin without changing the set of information within the skin in response to an event not originating from a user request to a different skin to be used as a method of distributing audio and/or video content, wherein the artistic background defining the skin comprises at least one of background shape, a background color, or arrangement of controls specific to the individual skin.

Appealed claim 20

Appealed claim 20 defines the method of appealed claims 9, wherein the skin means applies a user profile as a parameter for controlling in selection of skins within the graphical user interface.

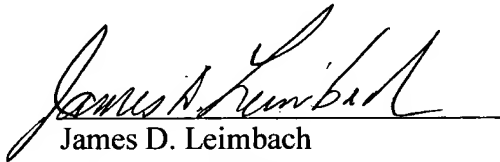
The rejection to appealed claim 20 alleges that *Monteiro et al.* teach a user profile means for controlling selection of skins within the graphical user interface. The appellants, respectfully, disagree for the simple reason that this allegation is unequivocally false. *Monteiro et al.* at column 2, lines 17-26 and column 8, lines 12-15 teach that portions of information can

be tailored to the client. There is no disclosure or suggestion that the environment changes. The appellants, respectfully, assert that *Dobronsky et al.* and *Monteiro et al.*, either alone or in combination do not disclose or suggest a user profile means for controlling selection of skins within the graphical user interface.

Conclusion

In summary, the examiner's rejections of the claims are believed to be in error for the reasons explained above. The rejections of each of claims 1-20 should be reversed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James D. Leimbach", is written over a horizontal line.

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APPENDIX I. Claims on Appeal

1. An apparatus comprising presentation means for presenting a graphical user interface within which information is displayed and skin means for applying a skin defining an artistic background comprising one of a background color, a background shape or a specific orientation of controls to the graphical user interface so as to influence the look of the graphical user interface, characterized in that the skin means are adapted to change a currently applied skin in response to an event not originating from a user request to change the currently applied skin.
2. An apparatus as defined in Claim 1, characterized in that the apparatus further comprises receiving means or receiving information from a remote server, said event comprising the reception of a skin change command from the remote server.
3. An apparatus as defined in Claim 2, characterized in that the apparatus further comprises storage means for storing a plurality of skins, the skin change command including an identification of a respective one of the plurality of skins, the skin means being adapted to apply said respective skin to the graphical user interface in response to said skin change command.
4. An apparatus as defined in Claim 2, characterized in that the skin change command including a further skin, the skin means being adapted to apply said further skin to the graphical user interface.
5. An apparatus as defined in any one of Claims 1, characterized in that the presentation means are capable of presenting further information, the event comprising a change of a parameter of said further information.
6. An apparatus as defined in Claim 5, characterized in that said further information comprises audio and/or video content, said parameter representing a category of said content.

7. An apparatus as defined in Claim 1 characterized in that the apparatus further comprises user profile means for maintaining a user profile, said event comprising a change of said user profile.
8. A computer program product for causing, when executed on a computing device, said computing device to constitute an apparatus as defined in Claim 1.
9. A method of generating a command to an apparatus, the apparatus having presentation means for presenting a graphical user interface within which information is displayed and skin means for applying a skin defining an artistic background within which data can be displayed to the graphical user interface so as to influence the look of the graphical user interface, characterized in that the command comprises a skin change command remotely transmitted to the apparatus for changing a currently applied skin in response to a parameter related to displayed information.
10. A method as defined in Claim 9 characterized in the said skin change command includes an identity of a respective skin stored in storage means of the apparatus, for controlling the skin means so as to apply said respective skin to the graphical user interface.
11. A method as defined in claim 9, characterized in that said skin change command includes a further skin for controlling the skin means so as to apply said further skin to the graphical user interface.
12. A method of distributing audio and/or video content as a method as defined in Claim 9.
13. A graphical user interface having a skin defining an artistic background within which data can be displayed within the graphical user interface, comprising:
 - a presentation mechanism within the graphical user interface that presents a set of information within the skin,
 - a skin change device coupled to the presentation mechanism that changes the skin without changing the set of information within the skin in response to an event not originating from a user request to a different skin.

14. An apparatus as defined in any one of Claims 13, wherein the event further comprises a change in a parameter defined by the further information.
15. An apparatus as defined in Claim 14, wherein the further information comprises audio and/or video content and the parameter representing a content category.
16. An apparatus as defined in Claim 13 wherein the apparatus further comprises a user profile and wherein the event is a change of within the user profile.
17. A computer program product that executes on a computational device creating the apparatus as defined in Claim 13.
18. An apparatus as defined by Claim 13 wherein the artistic background defining the skin comprises at least one of a background shape, a background color or an arrangement of controls specific to the individual skin.
19. A method as defined in Claim 9, wherein the artistic background defining the skin comprises at least one of a background shape, a background color or an arrangement of controls specific to the individual skin.
20. A method as defined in Claim 9, wherein the skin means applies a user profile as a parameter for controlling in selection of skins within the graphical user interface.